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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,788	06/15/2001	David K. Herman	A2550.0006/P006	7839

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EXAMINER

THEIN, MARIA TERESA T

ART UNIT PAPER NUMBER

3625

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/880,788

Applicant(s)

HERMAN, DAVID K.

Examiner

Marissa Thein

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ML

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) filed on October 31, 2001 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

This application has been filed with informal drawings, which are acceptable for examination purposes only. Figures 1 through 3 contains improper hand written text, which may affect clarity when reproduced.

Applicant is required to submit a formal correction of the noted defect. Applicant is required to submit drawing corrections promptly. Drawing objections may no longer be held in abeyance.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, claim 1 only recites an abstract idea. The recited steps of merely receiving and generating an order does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper.

As to technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble. In the present case, none of the recited steps are directed to anything in the technological arts as explained above with the exception of the recitation in the preamble that the method is "computerized". Looking at the claim as a whole, nothing the body of the claim recites any structure or functionality to suggest that a computer performs the recited steps. Therefore, the preamble is taken to merely recite a field of use.

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 9-11, 14-15, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,415,194 to Gleditsch et al.

Regarding claim 1, Gleditsch discloses a method of processing order information from a customer, comprising:

- receiving at least one projected requirement from a customer , the projected requirement including a projected quantity and a projected date on which the projected quantity will be required the by customer (see at least col. 5, lines 29-31; col. 5, lines 56-60; col. 12, lines 9-32);
- generating a pull order using the at least one projected requirement, the pull order including a predicted quantity of end products and predicted date on which the predicted quantity will be required by the customer (see at least col. 12, lines 23-32; col. 8, lines 52-62; col. 9, lines 58-65);
- directing production of the predicted quantity (see at least col. 9, lines 17-20; col. 10, lines 17-21);

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- receiving at least one standard order from the customer, the standard order including a quantity required immediately by the customer (see at least col. 10, lines 48-54; col. 12, lines 32-34; col. 17, lines 16-18);
- decrementing the predicted quantity by immediately required quantity (see at col. 8, lines 48-62; col. 11, lines 26-30; col. 12, lines 23-57); and
- directing delivery of the immediately required quantity to the customer (see at col. 4, lines 2-3; col. 11, lines 26-30; col. 12, lines 23-57).

Regarding claims 9-11 and 15, Gleditsch discloses directing production of an additional quantity in addition to the predicted quantity to protect against last minute revisions of the projected requirements of the customer (see at least col. 4, lines 38-44; col. 12, lines 42-57; col. 17, lines 14-44); and reserving the additional quantity for delivery only to the customer (see at least col. 4, lines 38-44; col. 12, lines 42-57; col. 17, lines 14-44); and identifying at least one subassembly included in the pull order capable of inclusion in a plurality of different end products (see at least col. 4, lines 45-48; col. 11, lines 54-65).

Regarding claim 14, Gleditsch discloses a system for processing order information from a customer comprising:

- a receiver module for receiving at least one projected requirement from a customer and receiving at least one standard for from the customer, the projected requirement including a projected quantity and a projected date on which the projected quantity will be required by the customer and the standard order including a quantity required immediately by the customer (see at least col.

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5, lines 29-31; col. 5, lines 56-60; col. 10, lines 48-54; col. 12, lines 9-32; col. 12, lines 32-34; col. 17, lines 16-18);

- a process module for generating a pull order using the at least one projected requirement, the pull order including a predicted quantity of end products and a predicted date on which the predicted quantity will be required by the customer (see at least col. 12, lines 23-32; col. 8, lines 52-62; col. 9, lines 58-65);
- a planning and manufacturing module for directing production of the predicted quantity (see at least col. 9, lines 17-20; col. 10, lines 17-21);
- an order management and planning module (see at col. 8, lines 48-62; col. 11, lines 26-30; col. 12, lines 23-57);
- a logistic module for directing delivery (see at col. 4, lines 2-3; col. 11, lines 26-30; col. 12, lines 23-57).

Regarding claim 20, Gleditsch discloses a system for processing order information from a customer comprising:

- a plurality of modules configured for processing the order information (col. 1, lines 8-21) comprising:
- a receiver module for receiving at least one projected requirement from a customer and receiving at least one standard for from the customer, the projected requirement including a projected quantity and a projected date on which the projected quantity will be required by the customer and the standard order including a quantity (see at least col. 5, lines 29-31; col. 5, lines 56-60; col. 10, lines 48-54; col. 12, lines 9-32; col. 12, lines 32-34; col. 17, lines 16-18);

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- a process module for generating a pull order using the at least one projected requirement, the pull order including a predicted quantity of end products and a predicted date on which the predicted quantity will be required by the customer, the process module identifying at least one sub-assembly include in the pull order (see at least col. 4, lines 45-48, col. 11, lines 54-65; col. 12, lines 23-32; col. 8, lines 52-62; col. 9, lines 58-65)
- a planning and manufacturing module (see at least col. 9, lines 17-20; col. 10, lines 17-21);
- an order management and planning module (see at col. 8, lines 48-62; col. 11, lines 26-30; col. 12, lines 23-57);
- a logistic module (see at col. 4, lines 2-3; col. 11, lines 26-30; col. 12, lines 23-57).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,415,194 to Gleditsch et al as applied to claim 1 above, and further in view of U.S. Patent No. 4,958,292 to Kaneko. Gleditsch substantially discloses the claimed invention, however, it does not disclose a plurality of delivery destinations. Gleditsch discloses the completion and shipment of an order (col. 2, lines

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46-47). Furthermore, Gleditsch discloses the past customer shipment history (col. 3, lines 58-59) and that shipments can be done by portion such as 100 units of the product to be shipped on day 9 and 50 units can be shipped on day 4 (col. 17, lines 45-47). Kaneko, on the other hand, teaches the plurality of delivery destinations, the delivery includes directing a subset of the immediately required quantity to each of the delivery designations (see at least col. 6, lines 45-54).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Gleditsch, to include the plurality of delivery destinations, as taught by Lubenow, in order to provide a physical distribution of products in the proper quantities in the most efficient manner and then improve the efficiency of the present production (col. 21, lines 23-27).

Claims 3-6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,415,194 to Gleditsch et al as applied to claim 1 above, and further in view of U.S. Patent No. 6,148,291 to Radican.

Regarding claims 3-4 and 17, Gleditsch substantially discloses the claimed invention, however, it does not disclose debiting an account of the customer according to a current price of the immediately required quantity; and the account is debited when the immediately required quantity is shipped to the customer. Gleditsch discloses an output device, which may generate purchase orders and linked to an ordering system of suppliers or customers (col. 4, lines 28-33). Radican, on the other hand, teaches the debiting an account, as recited in the claims (see at least col. 6, lines 63-col. 7, line 7).

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It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Gleditsch, to include the debiting of an account, as taught by Radican, in order to generate bills to customers with actual confirmation that a particular delivery has been made (col. 7, lines 5-7).

Regarding claims 5-6, Gleditsch substantially discloses the claimed invention, however, it does not disclose the Internet. Gleditsch discloses the computer system used in manufacturing resource planning (see at least col. 1, lines 7-8). Radican, on the other hand, teaches the Internet (see at least col. 5, lines 32-35).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Gleditsch, to include the Internet, as taught by Radican, in order to provide global communication anywhere in the world.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,415,194 to Gleditsch et al. in further view of U.S. Patent No. 6,055,519 to Kennedy.

Regarding claims 7-8, Gleditsch substantially discloses the claimed invention, however, it does not explicitly disclose wherein when the immediately required quantity is available for immediate delivery, the act of directing delivery is performed immediately and without operator intervention; and wherein when the immediately required quantity is not available for immediate delivery, the act of directing delivery is performed immediately and without operator intervention as to an immediately available subset of the immediately required quantity, production is directed of a remainder of the immediately required quantity, and the act of directing delivery is performed at a later

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time for the remainder of the immediately required quantity. Gleditsch discloses the reasonable amounts of the inventory of raw materials and subassemblies are maintained on hand in order to provide sufficiently capacity to meet unanticipated demand (col. 6, lines 3-6).

Kennedy, on the other hand, teaches the immediately required quantity is available for immediate delivery, the act of directing delivery is performed immediately and without operator intervention; and wherein when the immediately required quantity is not available for immediate delivery, the act of directing delivery is performed immediately and without operator intervention as to an immediately available subset of the immediately required quantity, production is directed of a remainder of the immediately required quantity, and the act of directing delivery is performed at a later time for the remainder of the immediately required quantity (see at least col. 2, lines 21-41; col. 2, lines 54-63; col. 6, lines 43-50; col. 7, line 66-col.8, line 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Gleditsch, to include the immediate required quantity for immediate delivery and when the immediate required quantity is not available for immediate delivery, the act of directing delivery is performed immediately when available, as taught by Kennedy, in order to provide what a buyer wants and what the seller is willing to do (Kennedy col. 6, lines 50-52).

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,415,194 to Gleditsch et al. in further view of U.S. Patent No. 6,609,101 to Landvater.

Regarding claims 12-13, Gleditsch substantially discloses the claimed invention, however, it does not explicitly disclose the Bill of Materials. Gleditsch discloses a method which is able to calculate when certain amounts of raw materials or other manufacturing resources are going to be needed based on when a customer order needs to be filled, and hence the method can additionally determine the date when the manufacturer needs to purchase or produce raw materials, refills, and the like (based on known supplier or manufacturing lead time), and plan to make those other resources available to produce the goods in time to meet a promised shipping date for an order to the customer. The method manages materials and other resources and may integrate the planning of manufacturing resources with an order acknowledgement. (See col. 3, line 61 – col. 4, line 6). Landvater, on the other hand, teaches the Bill of Materials (see at least col. 9, line 66 – col. 10, line 4). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Gleditsch, to include the Bill of Materials, as taught by Landvater, in order to identify and quantify the material that go into an end or final product (col. 9, lines 66-col.10, line 1).

Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,415,194 to Gleditsch. Regarding claims 18-19, Gleditsch substantially discloses the claimed invention, however, it does not teach the specific system to receive data. However, the specific system to receive data does not patentably distinguish the claimed system. Further, the recited statements of the received data from a manufacturing and resource planning and via an electronic data interchange system do not patentably distinguish the claimed system. It would have

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been obvious to one of ordinary skill in the art at the time of the invention was made to provide any type of system to receive data, taught by Gleditsch, because the subjective interpretation of the system does not patentably distinguish the claimed invention.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,819,232 to Shipman discloses a method of forecasting inventory planning and scheduling operations in manufacturing or distributing facilities.

U.S. Patent No. 5,974,395 to Bellini et al. discloses a system and method for extended enterprise planning across a supply chain.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 703-305-5246. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Smith can be reached on 703-308-3588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mtot
May 3, 2004



Jeffrey A. Smith
Primary Examiner